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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE ZOOM VIDEO
COMMUNICATIONS, INC. PRIVACY
LITIGATION,

This Document Relates To: All Actions

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Pursuant to L.R. 3-4(a), additional parties are listed on the signature page.

Master File No. 5:20-cv-02155-LHK

**SECOND SUPPLEMENTAL JOINT CASE
MANAGEMENT CONFERENCE STATEMENT**

CMC Date: February 24, 2021
CMC Time: 2:00 pm
Judge: Hon. Lucy H. Koh
Courtroom: 8

1 **JOINT CASE MANAGEMENT STATEMENT**

2 In accordance with the Court’s order of November 13, 2020 (ECF No. 129), Plaintiffs and
3 Defendants Zoom Video Communications, Inc. (“Zoom” or “Defendant”), by and through their
4 respective counsel of record, hereby jointly submit this Joint Case Management Statement reporting
5 on events since the last statement was filed on November 12, 2020 (ECF No. 128).

6 **1. PROGRESS SINCE LAST CASE MANAGEMENT STATEMENT**

7 The Parties report that the key changes since the last case management statement are: (1) the
8 Parties have provided each other with discovery, as described below; (2) two motions before Magistrate
9 van Keulen (ECF Nos. 135 & 150), one of which came before this Court (ECF No. 148); (3) numerous
10 telephonic meetings of counsel regarding discovery disputes; and (4) mediation (ongoing) before the
11 Hon. Jay C. Gandhi (Ret.) on November 13, 2020, and related follow-up negotiations are continuing
12 at this time.

13 **2. AMENDMENT OF PLEADINGS**

14 The Plaintiffs filed their First Amended Consolidated Class Action Complaint (“FAC”) on
15 October 28, 2020. The Parties do not anticipate further amendment to the pleadings at this time.

16 **3. MOTIONS**

17 Zoom’s motion to dismiss is fully briefed and under submission before the Court. (ECF Nos.
18 134, 141, 147.)

19 **4. EVIDENCE PRESERVATION**

20 Since the last case management statement, the Parties stipulated to a protocol governing ESI
21 discovery in this matter, which the Court entered on January 20, 2021. (ECF No. 145.)

22 **5. DISCLOSURES**

23 The Parties timely served their initial disclosures on August 14, 2020.

24 **6. DISCOVERY**

25 The Court has entered a stipulated Order Re Federal Rule of Evidence 502(D) and Privileged
26 Materials Order (ECF No. 140), and a Stipulated Protective Order (ECF No. 139).

1 Plaintiffs propounded written discovery on Zoom on August 28 and December 17, 2020 in the
2 form of Requests for Production of Documents and Interrogatories, respectively. Zoom timely served
3 its responses and objections to Plaintiffs' document requests and interrogatories, and to date, Zoom has
4 produced approximately 14,335 pages of discovery (2,324 documents; approximately 25% of the
5 documents that Zoom committed to produce as of the filing of the February 5, 2021 Joint Statement
6 (ECF No. 150)) and it continues to produce documents on a rolling basis. On February 10, 2021,
7 Plaintiffs propounded a Second Set of Interrogatories on Zoom.

8 Zoom propounded written discovery on Plaintiffs on December 2, 2020 in the form of Requests
9 for Production of Documents, Interrogatories, and Requests for Admission (collectively "Requests").
10 Plaintiffs timely served their written responses to Zoom's Requests on January 19, 2021. The Parties
11 anticipate that Plaintiffs will begin producing documents responsive to Zoom's document requests in
12 the coming weeks.

14 The Parties have met and conferred extensively regarding the appropriate scope of Plaintiffs'
15 document requests and Zoom's resulting production and have made significant progress towards
16 agreement. However, despite diligent efforts, there remain unresolved questions regarding the
17 relevance and scope of many of Plaintiffs' document requests, which have not yet ripened into disputes
18 to present to the Court. With respect to certain ripe issues, on February 5, 2021, the Parties submitted
19 a Joint Statement Regarding Discovery Disputes seeking guidance from Magistrate Judge van Keulen
20 (ECF No. 150). On February 9, 2021, Judge van Keulen issued a Discovery Order, which resolved
21 many of the Parties' unresolved scope issues and set certain other issues for hearing (ECF No. 152),
22 which took place on February 16, 2021 (*see* ECF No. 153), with certain additional issues potentially to
23 be put before the Court on Thursday, February 18, 2021. In addition, guided by Plaintiffs' March 26,
24 2021 class certification deadline (ECF No. 117), Judge van Keulen imposed a March 5, 2021 deadline
25 for Zoom to complete a rolling production of the documents it had agreed to produce at the time the
26 Parties filed their Joint Statement Regarding Discovery Dispute (ECF No. 152 at 3.) Although these
27 proceedings before Judge van Keulen have been helpful to resolving the Parties' existing disputes,
28

1 there is still meaningful additional document discovery at issue, including relevant to class certification,
 2 beyond that subject to the current March 5 deadline.

3 Following the February 16 discovery hearing, Judge van Keulen issued a Second Order
 4 Regarding Joint Discovery Letter Brief, issued February 16, 2021 (ECF No. 154), providing guidance
 5 to the Parties and requiring further meet-and-confer efforts, in which the Parties have been engaged.
 6 These negotiations concern discovery relevant to class certification and merits issues. The Parties also
 7 continue to confer regarding Plaintiffs' discovery responses, and Plaintiffs' document production are
 8 forthcoming.

9 **6. SETTLEMENT AND ADR**

10 As mentioned above, the Parties' mediation efforts before the Hon. Jay C. Gandhi (Ret.)
 11 continue.

12 **7. SCHEDULING**

13 The Parties believe that a 3-month extension of the deadline for Plaintiffs' filing of a class
 14 certification motion, and adjustment of other case schedule deadlines, is warranted to allow for
 15 sufficient and orderly discovery prior to class certification briefing. Specifically, the Parties have met
 16 and conferred regarding the class certification deadlines set forth in the August 7, 2020 Case
 17 Management Order (ECF No. 117) ("Scheduling Order"), and agree that the schedule should be
 18 extended to allow for the completion of discovery pertinent to class certification, including class
 19 certification-related expert discovery. Despite diligent efforts, the Parties submit that additional time
 20 for completion of class certification discovery is warranted. The reasons for this include:

21 First, due to the Parties' ongoing meet and confer efforts, the ultimate scope of discovery in this
 22 case is becoming more clear, but is still subject to the Parties' agreement to custodians and search terms
 23 for both sides' productions. The Parties continue to negotiate custodians and search terms at this time,
 24 for both sides' productions, including in response to Judge van Keulen's guidance in the Court's
 25 February 16 Second Order Regarding Joint Discovery Letter Brief (ECF No. 154).

26 Second, generally speaking, the claims raised in Plaintiffs' FAC span three separate theories:
 27 (1) that Zoom is allegedly liable for alleged meeting disruptions by unwanted third-party participants

1 who join Zoom meetings; (2) that Zoom allegedly shared user data with certain third parties without
 2 authorization; and (3) that Zoom allegedly misrepresented its end-to-end encryption capabilities. Each
 3 of these theories entails its own stream of discovery. In addition, Zoom has moved to dismiss on all
 4 three theories, and the resolution of that motion may further inform the shape of discovery in this case.

5 Third, not only is the remaining discovery expected to be voluminous, but the Parties need
 6 additional time for their experts to examine relevant documents and information produced in discovery.
 7 And to the extent the Parties seek to disclose the other's "HIGHLY CONFIDENTIAL—
 8 ATTORNEYS' EYES ONLY" material to their experts, the Parties are required to disclose those
 9 experts to the producing party before doing so, and to allow time for the producing party to object to
 10 such disclosures under the terms of the Stipulated Protective Order (ECF No. 139 ¶ 7.4), further making
 11 the current class certification schedule infeasible.

12 Accordingly, the Parties agree, and respectfully submit, that there should be an extension of the
 13 deadlines set forth in the August 7, 2020 Scheduling Order, as set forth below, as well as an extension
 14 of the related March 5 deadline by which Zoom is to complete its rolling production of items agreed to
 15 as of the February 5, 2021 Joint Statement (ECF No. 150). The Parties will file a stipulation and
 16 proposed order with the Court in short order to that effect. The Parties believe that these continuances
 17 are necessary in light of the current status of class-related discovery and to provide sufficient time to
 18 complete that discovery and brief the class certification motion.

19 The revised proposed deadlines are as follows:

<u>Scheduled Event</u>	<u>Current Date</u>	<u>Parties' Proposal</u>
Last day for Zoom to complete rolling production of items it agreed to produce as of the February 5, 2021 Joint Statement (ECF No. 150)	March 5, 2021 (ECF No. 152)	April 9, 2021
Last day to file for Plaintiffs to file Motion for Class Certification	March 26, 2021 (ECF No. 116)	June 25, 2021

Last day for Defendant to file Opposition to Motion for Class Certification	April 23, 2021 (ECF No. 116)	August 13, 2021
Last day for Plaintiffs to file Reply in Support of Class Certification	May 7, 2021 (ECF No. 116)	September 3, 2021
Hearing on Motion for Class Certification	May 27, 2021 at 1:30 p.m.	September 23, 2021 at 1:30 p.m.
Close of Fact Discovery	August 28, 2021	October 29, 2021

8. **OTHER**

The Parties have no other issues to raise at this time.

Dated: February 17, 2021

AHDOOT & WOLFSON, PC

By: /s/ Tina Wolfson
Tina Wolfson

Dated: February 17, 2021

COTCHETT, PITRE & MCCARTHY LLP

By: /s/ Mark Molumphy
Mark C. Molumphy

Interim Co-Lead Class Counsel

Dated: February 17, 2021

COOLEY LLP

By: /s/ Kathleen R. Hartnett
Kathleen R. Hartnett

Attorneys for Defendant

ZOOM VIDEO COMMUNICATIONS, INC.

1 **ATTESTATION UNDER LOCAL RULE 5-1**
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In compliance with Local Rule 5-1, I, Theodore Maya, attest that the other signatories to this document concur with its filing.

Dated: February 17, 2021

By: */s/ Tina Wolfson*
Tina Wolfson